

MINUTES OF THE MEETING
OF THE
BOARD OF MEDICINE AND SURGERY

January 20, 2006

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Chairman Randy Kohl, MD at 9:05 a.m. on Friday, January 20, 2006, at Southeast Community College Continuing Education Center, Room 302, 301 S 68th St Place, Lincoln, Nebraska. The following members answered to roll call:

Randy T. Kohl, MD, Chairman
Michael A. Sitorius, MD, Vice-Chairman
David A. Dryburgh, Secretary
Larry E. Bragg, MD
Samuel L. Brown, PhD
Vonn Roberts, MD
Carl V. Smith, MD
Arthur A. Weaver, DO

Absent: None

A quorum was present and the meeting convened.

Also present to participate in the meeting: Terri Nutzman, Assistant Attorney General; Robert Semerena, Administrator, Investigations Division; Michael Grutsch, Program Manager, Investigations Division; Susanne Rydberg, Investigator; Patricia Lemke, Investigator; Marletta Stark, Investigator; Loretta Bennet, Investigator; Duane Newland, Investigator; Jeff Newman, Investigator; Becky Wisell, Section Administrator, Credentialing Division; Vicki Bumgarner, Credentialing Coordinator, Credentialing Division.

ADOPTION OF AGENDA

Smith moved, seconded by Roberts to adopt the agenda. Voting aye: Kohl, Sitorius, Bragg, Brown, Dryburgh, Roberts, Smith, Weaver. Voting nay: None. Absent: None. Motion carried.

APPROVAL OF MINUTES OF THE MEETING FROM DECEMBER 2, 2005

Sitorius moved, seconded by Smith to approve the minutes of the December 2, 2005 meeting. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

INVESTIGATIONAL REPORTS

Smith moved, seconded by Weaver to go into closed session for the purpose of hearing investigational reports. Voting aye: Kohl, Sitorius, Bragg, Brown, Dryburgh, Roberts, Smith, Weaver. Voting nay: none. Absent: None. Motion carried and the meeting went into closed session at 9:07 a.m.

Ruth Schuldt, Compliance Monitor, Credentialing Division, entered the meeting at 10:00 a.m.

Meegan Dyrlund, Credentialing Specialist, Credentialing Division, entered the meeting at 10:30 a.m.

Kohl recused himself at 10:37 a.m.

Kohl returned to the meeting at 10:39 a.m.

The meeting returned to open session at 11:33 a.m.

Initial Licensure

Roberta E. Sonnino, MD- the Board reviewed information regarding one malpractice claim (Montague), revocation of hospital privileges in 2003 and possible unlicensed practice as the Associate Dean for Academic Affairs at Creighton University since October 2004. Smith moved, seconded by Dryburgh to approve issuance of a license to Sonnino and to assess the administrative penalty for unlicensed practice at the maximum penalty of \$1000. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Perry Mark Dworkin, DO-the Board reviewed information regarding eight malpractice claims (Eisner, Lodico, Vellusco, Lee, Roundtree, Schatz, Salvo, Brodsky) and an appearance before several boards regarding his malpractice history. Smith moved, seconded by Sitorius to approve issuance of a license to Dworkin. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Susan Payson, DO-the Board reviewed information regarding two malpractice claims (Lamance, Tackett) Bragg moved, seconded by Dryburgh to approve issuance of a locum tenens permit to Payson. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Luciano Vargas, MD-the Board reviewed information regarding Vargas moonlighting without a permanent license. Dryburgh moved, seconded by Weaver to approve issuance of a license to Vargas upon completion of the application and to assess the administrative penalty for unlicensed practice to Vargas. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Loren Mason Cobb, MD-the Board had been mailed confidential information. Sitorius moved, seconded by Dryburgh, to approve issuance of a license to Cobb. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Reinstatement

James Paul Gregory, MD- application for reinstatement of license after one year from non-disciplinary revocation. The license was revoked for non-payment of the renewal fee on November 18, 2002. Weaver moved, seconded by Dryburgh to reinstate the license for Gregory. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

PHYSICIAN ASSISTANT APPLICATION REVIEW & DISPOSITION

Application to Supervise a Physician Assistant for Less than 20% Supervision

Chris Maasdam, MD to supervise Brett Scholting –Scholting is employed full-time as a physician assistant with the Nebraska Army National Guard. Dr. Maasdam has direct supervision with Capt. Scholting one to two days per month. The Board discussed that the PA Committee noted the low level of patient complexity and the unique population being served, since Scholting primarily does physicals and administrative work. Dryburgh moved, seconded by Smith to approve Dr. Maasdam's application. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Paula Walters, MD to supervise Kimberly Dierks, PA at a rate of 10%- Dr. Walters is currently certified as Dierks' supervisor. The Board discussed, as in a previous similar request, that the proposed site in an Omaha grocery store is not a shortage area. The Board agreed with the PA Committee's discussion questioning how they could be sure that only low-level complexity care would be provided. Smith moved, seconded by Dryburgh, to deny Walters' application to supervise Kimberly Dierks, PA as a third physician assistant. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Application for Approval to Supervise Physician Assistant from Physician with Past Disciplinary Action

Scott Smith, MD to supervise Amy Eifert, PA-Dr. Smith's Nebraska Physician license was on "Limitation-Voluntary in lieu of discipline status" from 1995-1998. Dr. Smith has maintained his license in good standing since 1998. Sitorius moved, seconded by Bragg to approve Dr. Smith's application. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Steven Mahnke, MD to supervise Brandon McLaughlin, PA-This application has been withdrawn.

Application to Supervise a Third Physician Assistant

Teri Barkoukis, MD to supervise Mikhael Loots, PA-Dr. Barkoukis is already supervising two physician assistants, however the combined hours will not exceed 2 FTEs. Bragg moved, seconded by Dryburgh, to approve Dr. Barkoukis' application. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Robert Saniuk, MD to supervise Rebecca Wehrbeing, PA-Dr. Saniuk is already supervising two physician assistants, however the combined hours will not exceed 2 FTEs. Bragg moved, seconded by Weaver to approve Dr. Saniuk's application. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

UPDATE ON UNIFORM LICENSING LAW (ULL) AND PRACTICE ACT CHANGES

Wisell informed the Board that the ULL will not be introduced as Department legislation in 2006, since it was not approved by the Governor's Policy Research office. Wisell stated that the Department will continue to work on both the ULL rewrite and the Practice Act changes and hopes that these can be introduced in 2007.

2006 LEGISLATION

Wisell informed the Board of legislation that may affect the profession.

LB1177 was a bill introduced January 19 that concerns the ULL/UCA and a statement of intent to introduce the bill in 2007.

LB318 Amendment is a carryover from last year regarding wholesale drug distribution. It would regulate any wholesalers doing business/shipping into Nebraska.

LB1079 would create an Immunosuppressant drug repository similar to the cancer drug repository.

LB833 would amend Medicine and Surgery statutes regarding who needs a license (consultations, teleradiology, pathology, etc). The Board discussed getting more information on this bill and getting more information to make sure that all of the necessary provisions are covered.

LB1163 would change the statute of limitations for malpractice. Sitorius moved, seconded by Weaver, to oppose the Bill. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

LB1260 modifies the Hospital Medical Liability act. The Board expressed their concerns regarding this bill. It could have negative effect on who is recruited to come into Nebraska because the insurance premiums would go through the roof. Weaver moved, seconded by Roberts to oppose the Bill. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

LB908 would exempt Advanced Practice Registered Nurse (APRN) from needing a license to take x-rays.

LB838 would exempt Certified Registered Nurse Anesthetists (CRNA) from the requirements of the Radiation Control Act.

Roberts discussed that CRNA's do not get training in radiology, which is necessary to perform this procedure. Roberts moved, seconded by Smith to oppose this bill because of the lack of education of the CRNA's and in the interest of public safety. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

FEDERATION OF STATE MEDICAL BOARDS ISSUES

Annual Meeting April 20-22, 2006, Boston Massachusetts

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At this point, all members, with the exception of Roberts, are planning on attending. Dr. Roberts will let us know next week if he is able to get the time off. Dyrlund will work on travel requests and let all members know when the authorizations are approved.

Nominations to Board of Directors and Committees

The Board discussed the three members of the Board who are seeking to be nominated and appointed. Kohl and Brown requested to be nominated for a seat on the Board of Directors and Dryburgh is seeking to be appointed to a Committee. All paperwork for these nominations has been submitted.

Nominations For Awards

Wisell asked if there were any nominations for awards. Hearing none, the Board moved to the next item on the agenda.

James D. Smith, Assistant Attorney General entered the meeting at 1:02 p.m.

UPDATE ON PENDING DISCIPLINARY ACTION – CLOSED SESSION

Dryburgh moved, seconded by Brown to go into closed session for the purpose of hearing an update on a pending disciplinary case. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

The meeting went into closed session at 1:14 p.m.

The meeting returned to open session at 1:50 p.m.

Sandra Johnson, president of the Nebraska Medical Association entered at 1:55 p.m.

REPORT ON MEETING OF THE AMERICAN ASSOCIATION OF OSTEOPATHIC EXAMINERS

Weaver reported on some highlights from the American Association of Osteopathic Examiners Annual Meeting held in Florida. He discussed how the national board testing entities deal with requests for special accommodations.

CONSIDERATION OF BOARD OF MEDICINE & SURGERY RETREAT

The Board discussed possible topics for a retreat. They included paperless meeting and perhaps discussing alternative medical procedures. The Board then considered that since we have more meetings, more time could be spent on topics of interest at the meetings. It was suggested to put these important issues at the beginning of the meeting so that it wouldn't get lost in the shuffle towards the end of the meeting. It was also discussed to have a facilitator come in to help keep them on task.

UNFINISHED BUSINESS

Board of Medicine Newsletter

Kay Kahla and Dr. Scott, both former board members, will help write stories, format and put together the newsletter. Dr. Scott's wife has also offered to help. She has previous experience in formatting and layouts of newsletters. The target date for the first issue is Fall of 2006.

Paperless Meetings

Wisell discussed the issue of cash spending authority which was a slight bump in the road for obtaining laptops and software needed for paperless meetings. Some items in the budget had to be reduced, but there is still enough to proceed with this. Credentialing staff will be working on getting vendors to come and present to the Board.

LB 551 Regarding Supervision of Alcohol and Drug Counselors

The Board discussed the note from Kris Chiles, Section Administrator for the Board of Alcohol and Drug Counseling. They would like to move forward with regulations so the Board is being asked to make a recommendation on criteria they would like in regulations for a physician to be able to supervise a

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Licensed Drug & Alcohol Counselor. The Board discussed that it appears that criteria recommended by the Board of Psychologists has lower standards than those recommended by the Board of Alcohol & Drug Counseling. The Board agrees with the criteria proposed by the Board of Alcohol and Drug Counseling for physicians to be able to supervise drug and alcohol counselors, but feels the same criteria should apply to psychologists. The physicians and psychologists both need to have training in addictionology.

The Board commented about the CD of Board recommendations. They thought it was very helpful. The also gave some ideas to staff to make it less time consuming for staff such as not putting the dismissed cases on the database.

PHARMACEUTICAL CARE AGREEMENTS

The Board reviewed the pharmaceutical care agreements submitted by Stephanie Conover, RP, and Mary Gallagher-Jansen, MD and by Lisa Milburn, RP, Mary Bickel, RP and Mark Butterbrodt, MD .

DEA CLARIFICATION REGARDING PRESCRIBING OF SCHEDULE II CONTROLLED SUBSTANCES

The DEA issued a clarification of existing requirements under the Controlled Substances Act for prescribing Schedule II Controlled Substances.

FINANCIAL REPORT

The Board reviewed the financial report as of November 30, 2005.

DISCIPLINARY INFORMATION – ACTIONS TAKEN & PENDING

The Board reviewed the actions taken and pending since the last meeting.

ELECTION OF OFFICERS

Weaver moved, seconded by Brown to nominate Sitorius as Chairman of the Board. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

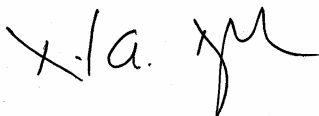
Weaver moved, seconded by Smith to nominate Dryburgh as Vice-Chairman of the Board. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

Weaver moved, seconded by Dryburgh to nominate Smith as Secretary of the Board. Voting aye: Kohl, Bragg, Brown, Dryburgh, Roberts, Sitorius, Smith, Weaver. Voting nay: none. Absent: None. Motion carried.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:15 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D.A. Dryburgh".

David A. Dryburgh, Secretary
Board of Medicine and Surgery